

**MINUTES**  
**BOARD OF FORESTRY**  
**August 30, 31, and September 1, 1999**  
**Sacramento, California**

**MEMBERS PRESENT:** Robert J. Kerstiens, Chairman  
Stan Dixon  
Raymond Flynn  
Robert Heald  
Kirk Marckwald  
Tharon O'Dell  
Darryl Young

**BOARD STAFF PRESENT:** Christopher P. Rowney  
Executive Officer  
Daniel R. Sendek  
Executive Officer, Foresters Licensing  
Fran Henson, Committee Consultant  
Donna Stadler, Executive Assistant

**DEPARTMENTAL STAFF:** Andrea Tuttle, Director  
Woody Allshouse, Chief Deputy Director  
Ross Johnson, Deputy Director  
Resource Management  
Dean Lucke, Assistant Deputy Director  
Dennis Hall, Regulations Coordinator

**CALL TO ORDER**

Chairman Kerstiens called the September 1999 Board of Forestry and Fire Protection meeting to order. He asked Director Tuttle to introduce the newest member to the Board of Forestry and Fire Protection.

Director Tuttle introduced Stan Dixon as the new public member, appointed by the Governor. She noted that Mr. Dixon is a Supervisor in Humboldt County.

**MINUTES**

Chairman Kerstiens asked for approval of the Board's August 1999 minutes.

**99-09-1** Mr. Young moved to approve the August minutes as amended. Mr. Flynn seconded the motion, and all were in favor.

## **CHAIRMAN'S REPORT**

Chairman Kerstiens reported that he and member Young and the Executive Officer toured the fire areas in the Coast-Cascade Region and commented on the remarkable job that CDF was doing. He said that a cooperative effort in reducing fuel is of major importance.

## **DIRECTOR'S REPORT**

Director Tuttle referred to her report in the Board's binder and reviewed it. She said that she attended the Urban Forestry Program in Pasadena.

Director Tuttle reported that Title 17 amendments were being driven by the Environmental Protection Agency (EPA) dealing with the question of smoke in the atmosphere. CDF is working very closely with the Air Resources Board to find a way to continue its Vegetation Management Program.

Mr. Woody Allshouse, Chief Deputy Director, provided the Board with handouts and reviewed the number of incidents responded to by CDF. He said that Bureau of Land Management and the US Forest Service were overwhelmed.

Mr. Glen Newman, CDF Chief of the Coast-Cascade Region, provided a copy of his report and reviewed it for the Board.

Mr. Tim Turner, CDF Chief of the Sierra South Region, provided a copy of his report and reviewed it for the Board.

## **REPORT OF THE USDA FOREST SERVICE**

Ms. Karen Barnette, Assistant to the Regional Forester, said that the Incident Command System is used internationally. CalMAC is the California Multi Agency Command and has worked very well during this fire season. It is a process where the fire directors of agencies get together and allocate resources. She then reviewed the fires on USFS lands for the Board.

Ms. Barnette said that the EIS Record of Decision on the Quincy Library Group Project was filed on August 20, 1999. She said that next there would be a hearing regarding the implementation. There is concern from the environmental community.

Ms. Barnette said that the Title 17 decision regarding agriculture burning has been postponed. She then reviewed for the Board the MOU regarding use of RPFs on federal lands.

## **ADVISORY COMMITTEE REPORTS**

### **CALIFORNIA FOREST PEST COUNCIL (CFPC)**

Mr. Scott Johnson, Chairman of the CFPC, gave some background of the CFPC for the new members. He then provided handouts and reviewed them for the members.

Mr. Johnson announced the CFPC's 48<sup>th</sup> Annual Meeting scheduled for November 18 and 19, 1999, is Sacramento. The meeting and symposium would be on assessing the impact of air pollution and burning on California forests. He extended an invitation to the Board to attend the meeting. He then reviewed the Forest Pest Conditions Report for the Board.

#### **RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)**

Mr. Christopher Rowney, Executive Office for the Board said that RMAC did not meet since its last report to the Board.

Mr. Rowney referred to the applications for RMAC in the binder and asked for a decision.

**99-09-02** Mr. Flynn moved to reappoint John Broome; Charles Pritchard; Neil McDougald; Steve Hackett; and Robert Rutherford to RMAC. Mr. O'Dell seconded the motion, and all were in favor.

Mr. Rowney said that the decision regarding the last position on RMAC would be made next month.

#### **PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)**

Mr. Daniel R. Sendek, Executive Officer for Professional Foresters Registration, said that the PFEC did not have any action items this month. He provided the new members with some background of the PFEC and an update on current issues. He reviewed the Memorandum of Understanding (MOU) with the USDA Forest Service regarding use of the RPF. He said that the USFS will submit proposed modifications to the MOU by December.

Mr. Sendek said that there were geologic guidelines approved by the Board of Registration for Geologists and Geophysicists (BRGG) for RPFs. A workshop will be held on October 29, 1999, which he and a representative from BRGG will attend. There will be five field sessions held throughout California.

#### **DEPARTMENT'S REPORT ON THE FRESHWATER WATERSHED**

Mr. Dean Lucke, Deputy Director for Forest Practices, provided the Board with binders containing a status report of PALCO THPs in the Freshwater Creek and Elk River THPs. He reviewed the binder for the Board.

Mr. Jim Adams, PALCO, said that PALCO has had no new violations in either watershed.

There was some further discussion.

## **REPORT OF THE EXECUTIVE SESSION**

Chairman Kerstiens reported on the Executive Session.

Mr. Christopher Rowney, Executive Officer for the Board, reported that the members Dixon and Marckwald had received and were briefed on Case number 217 and, therefore, are able to participate in the action of the Board. He said that the Board adopted an order as it relates to Case 217, and finds that the respondent, Scott R. J. Feller, has failed in responsibilities as it relates to Professional Forestry in making material misstatements and misrepresentations regarding a conversion/exemption. Furthermore, gross negligence was found due to a failure to identify a nest site for the Great Blue Heron. The Board adopted disciplinary action, which includes a one-year suspension with a six-month stay and a probationary period of nine months for a total of 15 months, which also includes a peer review of projects developed by Mr. Feller.

## **STANDING COMMITTEE REPORTS**

### **INTERIM COMMITTEE**

Chairman Kerstiens said that since the Interim Committee was going to resume its meeting later in the day, there would be no report at this time.

## **APPOINTMENTS TO THE STANDING COMMITTEE**

Chairman Kerstiens said that the Board would wait until after the first of the year to appoint members to the Forest Practice Committee and it has a full nine-member Board. The Interim Committee will remain active until that time. He said that the Interim Committee members are members Heald, Flynn, and O'Dell; a combination of the FPC and the EMC. The RPC will be reconstituted and put back on the agenda in November. Members Dixon, Marckwald, and Chairman Kerstiens will make up that Committee with Ms. Henson as staff. The Committee will focus on fire and air quality issues.

## **PRESENTATION OF THE FOREST SCIENCE PROJECT (FSP)**

Mr. O'Dell introduced the topic. He explained that the Forest Science Project was developed by a group of landowners.

Dr. Tim Lewis, Humboldt State University Foundation, provided the Board with the history of the Forest Science Project, its mission, and membership. He then provided a Power Point presentation. The primary focus was on regional stream temperatures in the Northwest and what drives them.

There was some further discussion.

Mr. Russ Henly, CDF, said that talks with FRAP were on-going regarding joint project work the FSP. He said that there is a new North Coast Watershed Program that has been funded this year. It is an opportunity for a good cooperative effort with the Forest Science Project program.

Mr. Joe Blum, USFS, asked if the USGS was withdrawing monitoring stations needed for FSP studies, and if so, is there something that the Board could do to express the need for those type of stations.

Dr. Lewis said that it could have a negative impact on projects. He too expressed an interest in maintaining those USGS sites.

Mr. Richard Gienger said that he assumes that the USGS information is public information.

### **POSSIBLE POSITIONS OR ACTIONS ON ISSUES WITHIN JURISDICTIONS OF FEDERAL AGENCIES**

Mr. Christopher Rowney, Executive Officer for the Board, said that he would try to get a hold of the GAO fire report as it relates to fire preparedness. Also, he will keep the Board up-to-date on the Quincy Library Group and the SNEP report.

### **REPORT OF EXECUTIVE OFFICER**

Mr. Christopher Rowney, Executive Officer for the Board, provided the Board with an update on Legislation.

Mr. Rowney announced that the Interim Committee would continue following the full Board meeting. He then said that the October meeting would be held in Concord and there would be a tour of the Oakland Hills fire area. Also, on September 14, 1999, there would be a special hearing for the two rule packages before the Board.

### **INITIAL HEARING FOR THE APPEAL OF APPROVAL OF NONINDUSTRIAL TIMBER MANAGEMENT PLAN 1-99- NTMP-003 SCR**

Chairman Kerstiens introduced the topic.

Mr. Christopher Rowney, Executive Officer for the Board, said that a copy of the record was sent to each Board member. Also, there was a copy of the record available for anyone wanting to review the NTMP.

Mr. Mark Deming, Santa Cruz Planning Department, representing the Santa Cruz County Board of Supervisors, said that the County appealed the approval of 1-99-NTMP-003 SCR on two grounds. First, the County adopted a temporary zoning ordinance restricting timber harvesting within riparian corridors in December 1998 that would run until December 31, 1999. He then

reviewed the ordinance for the Board. The second reason is that it is a policy issue relating to where timber operations occurs. He said that the concern of the County is that if the plan were adopted, the new rules for Coho and other species may not be enforceable. Also, he asked if the Agency rules that the Board is considering on September 14, should they go into effect in the year 2000 or 2001, apply to the NTMPs and how would they apply. He said that there is a sunset clause date of December 31, 1999. The roads would need to be resurfaced to the standards within the County's rules package. He said that the County is trying to handle the non-timber harvesting related sedimentation problems and the timber harvesting either through its rules package or through the ordinance.

Mr. Dean Lucke, Deputy Director for Forest Practice, said that the Department believes that the Board has the authority in issues relating to harvest in stream zones.

Mr. Norm Hill, Chief Counsel for the Department, said that the CDF believes that the ordinance exceeds the authority of the County. He said that this is the kind of issue that should be heard in detail. The Department believes that this goes beyond the authority of the County. He recommended that the Board hold a hearing.

Following some discussion with the Board, Mr. Hill said that it was an issue for the Board. It involves an area of critical environmental controls, an area that overlaps Board, CDF, and local issues.

Mr. Roger Thompson, CDF, Santa Rosa, said that extensive mitigations have been put into the NTMP, it is a planning document. The corrective work would be done during the first entry. The mitigation included is consistent with the 2090 Agreement. Surveys have been incorporated in the plan.

Mr. O'Dell asked what the advantage was to do an NTMP.

Mr. Thompson referred to Public Resources Code 4594 and said that the 1999 rules stay with the NTMP.

Mr. O'Dell said that he believes that the Board needs a review from the Department on the NTMP process.

Mr. Lucke said that the Department would prepare a presentation and its Counsel will provide the legal aspect regarding zoning.

Mr. Dennis Kehoe, representing the Big Creek Lumber Company, reviewed the history of this issue and said that has to do with control; state or local. The issue was before the Board last year and was not approved. He believes that the County wants to control the operations within it and is concerned that this could set a precedent. He read a portion of the 4594 (h) code into the record. Mr. Kehoe said that the environment is enhanced by this NTMP and asked the Board to reject the request for appeal by the County.

Mr. James Martin, CEO, California Redwoods Christian Association, provided a letter to members of the Board and reviewed the background of the Redwood Christian Park organization. He referred to the record of good stewardship by the Park. He said that in November 1997 the Park

contracted with Big Creek Lumber Company and that only 14 of the 460 trees would be removed. The Santa Cruz appeal has no merit and should be denied.

Mr. Mark Rentz, California Forestry Association (CFA), said that CFA believes that there is no basis for a hearing. He referred to the Forest Practice Act (FPA) and read from it. He said it is an operational not a location issue. He then encouraged the Board to reject the appeal.

Mr. Bob Berlage, Big Creek Lumber, referred to the ordinance and read from page five regarding the location criteria. He asked that the Board not refer this item to hearing.

Mr. Flynn inquired as to the number of crossings in the NTMP.

Mr. Bob Reynolds said that there were 16 Class III crossings.

Mr. Heald asked about the design standard of road crossings.

Mr. Reynolds said that it was 50 years.

Mr. Dan Weldon, Forest Landowners of California (FLOC), said that the Board should deny the appeal. FLOC was the sponsoring organization for the NTMP Legislation that was passed in 1989. He said that the FLOC would like to provide the Board with a presentation of the benefits of the NTMP process at a future Board meeting.

Mr. Richard Gienger suggested that the Board hold the hearing. He believes that the ordinance could protect downstream residents in the County.

**99-09-3** Mr. Flynn moved to close the initial hearing. Mr. Heald seconded the motion, and all were in favor.

Ms. Deborah Barnes, Deputy Attorney General and Counsel for the Board, reviewed the process for the members. She said that it could be heard in the County of Santa Cruz or Sacramento as a Committee of the Board, consisting of three Board members, or as a full Board here in Sacramento.

There was discussion regarding the authority of a Committee of three Board members.

Ms. Barnes said that if it were heard by a Committee of the Board, the Committee would have the full authority of the Board and it would not have to come back to the Board. She also explained the difference between a Finding vs. a Determination.

Mr. Marckwald said that he was not sure that there is an environmental problem, but that it is possibly an environmental issue of who does what and where. On that basis, he believes that it is an issue that needs to be looked at.

Mr. Ray Flynn said that he believes that the issue is larger than what has been presented. The riparian corridor is a separate issue from the environmental problem.

Chairman Kerstiens asked if there was a need to address the issue at another hearing.

Mr. Heald said that he was leaning on the advice of the Department's Counsel who said that the Board is operating on a quasi judiciary issue, with the environmental issues that have been raised.

Mr. Norm Hill, Senior Counsel for the Department, said that the issue is environmental practices in the stream zones. The Department is administering the current rules and the Board is looking at new rule standards. The County does not want any logging in stream protection zones, which raises environmental issues. The issue before the Board today is whether to hold a hearing.

Mr. Dixon said that he thought that he heard someone say that the Board had to deal with the NTMP under the existing rules, but now believes that this issue should be clarified at a full hearing.

There was some further discussion.

Ms. Barnes suggested that the Board vote and then if it desires, ask for a waiver on timing. She then reviewed the process and timing for the Board.

**99-09-4** Mr. Dixon moved to grant the appeals hearing.

Mr. O'Dell said that he would like the motion to reflect that the hearing be held before the full Board and not a Committee of the Board.

Mr. Dixon amended his motion to include member O'Dell's suggestion. Mr. Marckwald seconded the motion, and a roll call vote was called:

Heald	Aye
Young	Abstain
Marckwald	Aye
Flynn	Aye
Dixon	Aye
O'Dell	Abstain
Kerstiens	Aye

The motion carried 5-0 with two abstentions.

## **PUBLIC FORUM**

Mr. Jim Ostrowsky, President of the California Licensed Foresters Association (CLFA), provided the members with some background of CLFA. He then invited the Board to attend the CLFA workshop to be held on October 29, 1999. The focus would be a current issue on geology. He expressed concern over the MOU with the U.S. Forest Service and work being done by an RPF. CLFA is also working on ethical practices for RPFs.

Ms. Traci Thiele provided a publication for the members from Humboldt County. She said that she is concerned over the make-up of the Board and hopes that the Board would open its mind to the single woman. She then provided the Board with a written transcription of the Interim Committee meeting of August 1999.

Mr. Dan Weldon, Forest Landowners of California (FLOC), said that the FLOC would be holding a conference on October 7, 1999. The topic would be Hardwoods Management in Mixed Conifer Forests.

Mr. Jim Adams, Pacific Lumber, reported on the Water Quality Control Board hearing held in Eureka on August 26, 1999. He provided the Board with the highlights of that meeting.

Mr. Richard Gienger provided written summary of the changes and/or suggestions from the Interim Committee meeting held in August 1999. He then reviewed possible changes to the Agency package with the Board. Next he talked about the Native American Advisory Committee and expressed concern over the CLFA/CDF training program. Significant sites are being missed. There needs to be a BCP to get qualified Native American review persons on the review team. He then presented the Board with a newsletter from the Mattole restoration project and reviewed it for the members.

Ms. Cynthia Elkins, EPIC, addressed the problems in the old growth forests. She reviewed with the Board portions of CDF's White Paper. She requested that the Board put this item on its next agenda for discussion.

#### **NEW AND UNFINISHED BUSINESS**

Mr. Rowney announced that Mr. Terry McGuire of the Air Resources Board was retiring.

**99-09-5** Mr. Young moved to direct staff to send Mr. McGuire a letter of appreciation. Mr. Heald seconded the motion, and all were in favor.

#### **ADJOURNMENT**

Chairman Kerstiens said that the September 1999 meeting was adjourned.

Respectfully submitted,

ATTEST:

Original signed by

Original signed by

Christopher P. Rowney  
Executive Officer

Robert J. Kerstiens  
Chairman

Copies of the attendance sheet may be obtained from the Board office.